

Evictions for Nonpayment of Rent: Notice and Other Requirements before a Landlord May File in Court

*This document summarizes the requirements that landlords must meet prior to filing an eviction action in court for nonpayment of rent. See Section A for requirements through October 7, and Section B for requirements after October 7. **This document does not constitute legal advice and is for informational purposes only. If you believe your landlord may have issued an invalid NPDR, or taken any other improper action to evict you, call the OTA at (202) 719-6560.***

Remember: A tenant may not legally be evicted in the District of Columbia *for any reason* until D.C. Superior Court orders the eviction. (“Self-help” evictions are not permitted.) Evictions must take place in the presence of the U.S. Marshals Service. An eviction may not take place on any day when the National Weather Service predicts that the temperature in D.C. will fall below 32 degrees Fahrenheit, or when precipitation is falling at the location of the rental unit.

SECTION A – Through October 7, 2022

*Through October 7, 2022, a landlord must issue to the tenant a **Notice of Past Due Rent (“NPDR”)** at least 60 days prior to filing an eviction action for nonpayment of rent in D.C. Superior Court. Arguably, the landlord must provide both a 60-day NPDR and a separate 30-day NPDR (see IV below). The landlord must also meet several other requirements. Much of the following is permanent law;¹ however, note that the requirement for a landlord to serve a 60-day NPDR expires as of **October 7, 2022**.² Following that date, only a 30-day notice will be required. (See Section B for requirements after October 7.)*

I. Minimum past-due balance:³

*A landlord may not evict a tenant unless the past due rent for the unit is **\$600 or more**.*

II. 60-Day Notice of Past Due Rent:⁴

Through October 7, 2022, a landlord must issue a valid NPDR to the tenant in writing at least 60 days before the landlord files the action.⁵ The following describes important items that must be included in the 60-day NPDR:

- 1) The specific amount of rent owed, and a ledger showing dates of rent charges and payments during the period for which rent is unpaid.

¹ Law 24-115, the “Eviction Record Sealing and Fairness in Renting Amendment Act of 2022” (effective 5/18/22).

² Law 24-75, the “Tenant Safe Harbor Temporary Amendment Act of 2022” (effective 2/24/22-10/7/22).

³ D.C. Code §§ 16-1501(b).

⁴ D.C. Code § 42-3505.01(b-1)(2).

⁵ The full statutorily required language for the NPDR can be found at D.C. Code § 42-3505.01(b-1)(2)(B).

- 2) A statement that the tenant has the right to remain in the rental unit if the total balance of unpaid rent is paid in full, or for so long as the tenant remains current on a rent payment plan
- 3) A table showing maximum incomes per household size for the District's Emergency Rental Assistance Program (ERAP), along with the ERAP application web page (<https://erap.dhs.dc.gov>).
- 4) Statement that the landlord has the right to file an eviction action in court if the tenant does not pay the past due balance, or if the tenant misses two months of payments or at least \$600 on a payment plan (whichever is greater).
- 5) Statement that the next notice the tenant receives will be a court summons, and that the tenant has the right to defend themselves in court.
 - **(NOTE:** Although the law does not require the notice to state this, a tenant should be aware that the first NPDR the tenant receives must give the tenant at least 60 days' notice before the landlord may file the action in court – see (II)(3) above.)
- 6) A form on which the tenant may declare a financial or medical hardship so that the court may take this into consideration.⁶ Three types of hardship must be listed, and the tenant may check as many as apply:
 - a) Tenant's income is currently below 40% of Area Median Income (AMI).
 - b) Tenant is currently eligible, or was eligible during the District's declared Public Emergency, for cash assistance, supplemental nutrition assistance program (food stamps), supplemental security income (SSI), Medicaid or DC Healthcare Alliance, or unemployment insurance or benefits.
 - c) Vacating the home would present a significant health risk, to any member of the household, related to Covid-19.

III. 30-Day Notice of Past Due Rent⁷

*In a separate provision from the 60-day NPDR, the law requires that a landlord serve an NPDR at least 30 days before filing the eviction action. The language required for the 60-day NPDR⁸ would appear to satisfy the 30-day NPDR requirements; therefore, it is unclear whether the latter provision requires a separate 30-day NPDR, or if only one 60-day NPDR is required. It is possible that a tenant could successfully argue in court that they were entitled to a second, 30-day NPDR in addition to the 60-day NPDR if they were not served with one. A valid 30-day NPDR must contain specific language required by statute (or language that is substantively similar).⁹ **NOTE: From 5/18/22 until the Mayor signs Bill 24-918, the "Notice Requirements for Evictions for Nonpayment of Rent Clarification Emergency Amendment Act of 2022" (response due 8/4/22), the 30-day NPDR is known as a "notice of the housing provider's attempt to file a claim." Nonetheless, the requirements for the notice remain substantively the same. The following describes important items that must be included in the 30-day NPDR:***

- 1) The total amount of rent owed, and a ledger showing the dates of rent charges and payments for the period during which rent is unpaid.

⁶ Note that the affirmative requirement that the court must delay the eviction if it finds that the tenant has met one of the hardship circumstances only applies for cases filed prior to March 31, 2022.

⁷ D.C. Code § 42-3505.01(a-1).

⁸ D.C. Code § 42-3505.01(b-1).

⁹ The full statutorily required language for the 30-day NPDR can be found at D.C. Code § 42-3505.01(a-1).

- 2) A statement that the tenant has the right to remain in the rental unit if the total balance of unpaid rent is paid in full.
- 3) A statement that the landlord has the right to file a case in court seeking eviction if the tenant does not pay the balance of unpaid rent within 30 days of the notice.
- 4) A statement that the tenant has the right to defend themselves in court, and that only a court can order the eviction.
- 5) Phone numbers for the OTA **(202-719-6560)** and the Landlord Tenant Legal Assistance Network **(202-780-2575)**.

IV. Landlord pre-requisites to filing in court:

Through October 7, 2022, prior to filing a claim in court for eviction for nonpayment of rent, a landlord must do the following:

- 1) **Issue an NPDR to the tenant at least 60 days before filing the eviction action (see above).**
- 2) **Issue an NPDR to the tenant at least 30 days before filing the eviction action (see above).**
- 3) Wait until **one** of the following occurs:¹⁰
 - a) 60 days elapse from the issuance of the 60-day NPDR, and the tenant has not submitted an emergency rental assistance application; **or**
 - b) The tenant submits an application for emergency rental assistance¹¹ and:
 - i) The application is denied; or
 - ii) Both of the following occur:
 - A) The application is approved and assistance is provided, however a balance of \$600 or more remains on the ledger; **and**
 - B) The tenant and landlord have not established a payment plan within 14 days of the denial (or approval with a remaining balance).¹²
 - c) Alternatively, if a tenant on a payment plan is at least \$600 or 2 months behind on the payment plan (whichever is greater), the landlord may file the action.

V. Other Requirements for any Type of Eviction:

*A landlord must meet several other requirements prior to filing **any type** of eviction claim, including nonpayment of rent:*

- 1) **Language of the NPDR or Notice to Vacate (“eviction notice”):** The notice must be given in both English and Spanish. If the landlord knows the tenant speaks a primary language other than English or Spanish that is covered under the District’s Language Access law,¹³ the landlord must provide the notice in that language.¹⁴

¹⁰ D.C. Code § 42–3505.01(b-1).

¹¹ To apply for the Emergency Rental Assistance Program (ERAP), you may fill out an application at <https://erap.dhs.dc.gov/>.

¹² See D.C. Code § 42–3331.

¹³ D.C. Code § 2-1933.

¹⁴ D.C. Code § 42-3505.01(a)(3).

- 2) **Service of eviction notices:**¹⁵ The landlord must serve the notice to the tenant in one of the following ways:
- i) *Personally*: If the tenant can be found, the notice must be given directly to the tenant by the landlord, in person.
 - ii) *Delivery to a person of proper age*: **If the tenant cannot be found**, then the landlord may personally serve the notice to a person of proper age who is on the premises.
 - iii) *By posting*:
 - A) **If service by either of the first two methods is not possible**, then the landlord may serve the notice by posting it in a **conspicuous place** on the premises being rented.
 - B) If the landlord serves an eviction notice by posting the landlord must submit to the court a photograph of the posted notice. The photograph must have a readable timestamp that indicates the date and time of when the summons was posted.¹⁶
 - C) If the landlord serves an eviction notice by posting, the landlord must mail a copy of the notice within three days of posting by first class U.S. mail, postage prepaid, to the premises sought to be recovered, in the name of the person known to be in possession.
- 3) **Business License and Registration/Claim of Exemption:**¹⁷
- a) A landlord must document to the court, at the time of filing an eviction complaint, that the landlord has a business license for rental housing in the District issued by the Department of Consumer and Regulatory Affairs.
 - i) *(The court may waive this requirement if the landlord can demonstrate that they were unable to obtain or renew a current rental housing license due to extenuating circumstances, including a medical emergency, agency delay, or a circumstance in which a tenant or occupant denies permission for a required pre-license inspection or required repairs.)*¹⁸
 - b) A landlord must document to the court, at the time of filing the complaint, that the landlord has a valid rental housing registration (or valid claim of exemption from registration) issued by the Rental accommodations Division within the Department of Housing and Community Development.

SECTION B – After October 7, 2022

For any eviction for which an NPDR is served after October 7, 2022, the following requirements must be met before a landlord may evict a tenant for nonpayment of rent. In short, as of October 8, a 60-day notice under A(II) above is no longer required; all other requirements listed above will still apply.

I. Minimum past-due balance of \$600 as described in A(I) above.

II. 30-day NPDR as described in A(III) above.

¹⁵ D.C. Code § 42-3206.

¹⁶ D.C. Code § 42-3505.01(a)(2).

¹⁷ D.C. Code § 16-1501(c)(1).

¹⁸ D.C. Code § 16-1501(c)(2).

III. Landlord pre-requisites to filing in court as described in Section A(IV) above.

IV. All other requirements for any type of eviction as described in A(V) above.